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Counsel for Defendant  
MARK HERNANDEZ

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

UNITED STATES OF AMERICA,

PLAINTIFF,

v.

MARK HERNANDEZ,

DEFENDANT.

CR 16-00375 MAG

STIPULATION AND ~~PROPOSED~~ ORDER SEEKING  
CONTINUANCE AND EXCLUSION OF TIME UNDER  
THE SPEEDY TRIAL ACT

The parties hereby request that the status hearing date of October 5, 2016, presently scheduled at 9:30 a.m. before the Honorable Kandis Westmore, be vacated and the matter be reset for November 2, 2016.

This misdemeanor case involves allegations of Delay or Destruction of Mail. Mr. Hernandez made his initial appearance less than one month ago. The government has since turned over discovery to the defense, including video footage. The defense has been engaged in review of that discovery and needs additional time to complete that review and perform independent research. In addition, the parties have begun discussing a possible resolution of this matter. More time is needed to meet with Mr. Hernandez to discuss his options. The parties anticipate that if a

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Stip. to Continuance

1 resolution is not reached by the November 2 date, the parties will be prepared to set a motion  
2 schedule.

3 Defendant's counsel represents that he has fully informed his client of his Speedy Trial  
4 rights and that, to his knowledge, his client understands those rights and agrees to waive them.  
5 Defendant's counsel further believes that his client's decision to give up the right to be brought to  
6 trial earlier than if time were not excluded from the Speedy Trial Act is an informed and voluntary  
7 one.

8 The parties agree and stipulate that time under the Speedy Trial Act should be excluded  
9 from the date of this filing until November 2, 2016, under 18 U.S.C. §3161(h)(1)(G) and 18  
10 U.S.C. §3161(h)(7)(B)(iv), for effective preparation of defense counsel while further investigation  
11 is conducted and legal research is performed.

12 DATED: October 4, 2016

\_\_\_\_\_/S/  
NED SMOCK  
Assistant Federal Public Defender  
Counsel for Mark Hernandez

15 DATED: October 4, 2016

\_\_\_\_\_/S/  
PHILIP KOPCZYNSKI  
Assistant United States Attorney

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~~[PROPOSED]~~ ORDER

Based on the assertions and agreement of the parties as set forth in the parties' filed Stipulation dated October 4, 2016, IT IS HEREBY ORDERED THAT the above-captioned matter is continued to November 2, 2016, at 9:30 a.m., before the Honorable Donna M. Ryu, for further status.

The Court further finds that failing to exclude the time between the date of this filing and November 2, 2016, would unreasonably deny defense counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence and availability of defense counsel. 18 U.S.C. § 3161(h)(7)(B)(iv). The Court further finds that the ends of justice served by

1 excluding the time between now and November 2, 2016, from computation under the Speedy Trial  
2 Act outweigh the best interests of the public and the defendant in a speedy trial.

3 Accordingly, IT IS FURTHER ORDERED that the time between today's date and  
4 November 2, 2016, shall be excluded from computation under the Speedy Trial Act. 18 U.S.C.  
5 § 3161(h)(7)(B)(iv).

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7 IT IS SO ORDERED.

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9 DATED: 10/4/16

  
10 HON. KANDIS WESTMORE  
11 UNITED STATES MAGISTRATE JUDGE  
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